

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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KEON BRITTON and
RAYMOND JONES,

Plaintiffs,

-against-

COMPLAINT

CITY OF NEW YORK, DEREK
SAMBOLIN, and JOHN DOES 1-6,

Defendants.

**PLAINTIFFS DEMAND
A TRIAL BY JURY**

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Plaintiffs Keon Britton and Raymond Jones, by their attorneys Lumer & Neville, as and for their Complaint, hereby alleges as follows, upon information and belief:

PARTIES, VENUE and JURISDICTION

1. At all times hereinafter mentioned, plaintiffs Keon Britton and Raymond Jones were adult male residents of Kings County, in the State of New York.
2. At all relevant times hereinafter mentioned, defendant City of New York ("New York City"), was and is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York and acts by and through its agencies, employees and agents, including, but not limited to, the New York City Police Department ("NYPD"), and their employees.
3. At all relevant times hereinafter mentioned, Derek Sambolin (Tax No. 943771) was employed by New York City as a member of the NYPD. Sambolin is sued herein in his individual capacity.

4. At all relevant times hereinafter mentioned, defendants John Does 1-6 were individuals whose identities are not known to plaintiff who were employed by New York City as members of the NYPD. The Doe defendants are sued herein in their individual capacities.

5. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1343, and 42 U.S.C. § 1983.

6. Venue is properly laid, pursuant to 28 U.S.C. Section 1391, et seq. in the Eastern District of New York, where the plaintiffs and defendant New York City reside, and where the majority of the actions complained of herein occurred.

RELEVANT FACTS

7. On April 6, 2013, at or between 6:00 and 7:00 a.m., plaintiffs were lawfully present inside an apartment at 16 Gunther Place in Kings County, New York, where they both resided (the “premises”).

8. Plaintiff Britton was present inside one bedroom while plaintiff Jones was present inside another.

9. Two other adult guests were also present inside the premises, as was plaintiff Jones’s young child.

10. At or between 6:00 and 7:00 a.m., the plaintiffs were woken by the entry of police officers into the premises.

11. These officers included, upon information and belief, Sambolin and the

Doe defendants.

12. The defendants did not seek nor receive consent to enter the premises, nor could they reasonably have believed under the circumstances that consent had been given.

13. There were no exigent circumstances that would justify the entry into the premises, nor was there any objectively reasonable basis for the defendants to believe that such exigency existed.

14. The defendants later claimed that the entry was made pursuant to Search Warrant 240/2013, but at no time have the defendants ever produced or displayed said warrant to the plaintiffs.

15. The defendants seized the plaintiffs and their guests at gunpoint and handcuffed plaintiffs and their adult guests.

16. While the plaintiffs and defendants were still in the premises, but after plaintiffs had been handcuffed, one of the defendants displayed a photograph of a black male to the plaintiffs and asked if they knew the man, whom they identified as Ralph Hand (ph).

17. The plaintiffs not recognize the man in the picture nor the name Ralph Hand.

18. On two prior occasions within the months leading up to this April 2013 entry, members of the NYPD had come to the premises for the express purpose of locating the same Ralph Hand. On both occasions the plaintiffs allowed the NYPD into the premises

to establish that no such person was residing or staying there.

19. Thus, if, in fact, the defendants in this case had obtained a warrant to search for or based on the conduct of the mysterious Ralph Hand, the warrant could only have been procured by the knowing use of false information, withholding or omission of material information, or such wanton and gross negligence as to constitute deliberate indifference. In other words, the NYPD must have known by April 6, 2013, that Ralph Hand did not reside in or otherwise stay at the premises and that he had no connection to the actual residents of the premises, meaning the plaintiffs, and thus there was no basis for procuring or executing said warrant.

20. Not surprisingly, upon information and belief, the defendants did not find Ralph Hand in the premises nor did they find any evidence that Ralph Hand lived in the premises or had been staying or visiting the premises.

21. Notwithstanding the above, the defendants took plaintiffs (and their adult guests) into custody and transported them to a local area NYPD station house for processing.

22. The defendants lacked probable cause to arrest plaintiffs and it was unreasonable for them to believe probable cause existed.

23. Plaintiffs were detained for a period of time before being transported to Central Booking, where they were held for an additional period of time.

24. While they were in custody, defendant Sambolin created arrest paperwork in which he stated that the defendants had recovered a decorative sword, a

machete, a gravity knife, and marijuana from the premises.

25. Certain of these claims were simply false. For instance, there was no marijuana nor gravity knife in the apartment at the time of the arrest.

26. In short, nothing actually found in the premises provided probable cause for the arrest of any of the adults in the premises, including the plaintiffs.

27. At some point following plaintiffs' arrest, while they were in defendants' custody, the office of the Kings County District Attorney ("KCDA") reviewed the paperwork created and forwarded by Sambolin, and interviewed Sambolin about the allegations he had made and the facts and circumstances surrounding the plaintiffs' arrest.

28. Following this review and interview, the KCDA declined to prosecute the plaintiffs and their guests, and ordered that they be released from custody without being charged.

29. The defendants failed to secure plaintiffs' residence following the arrest so that the premises was left visibly open, unlocked, and vacant throughout the day while the plaintiffs were in defendants' custody.

30. As a direct result, the premises was burglarized at some point during the day.

31. At no time did Sambolin, the Doe defendants, nor any other members of the NYPD take any steps to intervene in the plaintiffs' arrest and subsequent incarceration despite ample opportunity to do so, nor did they file any corrective statements or make any effort of any sort to correct the false statements memorialized by Sambolin or otherwise

protect the plaintiffs' from any further harm caused by the knowingly violation of their constitutional rights.

32. That at all times relevant herein, Sambolin and the Doe defendants and their fellow officers were acting within the scope of their employment, and their acts were done in furtherance of the City of New York's interests and without legal justification or excuse.

FIRST CAUSE OF ACTION

33. Plaintiffs repeat the above allegations as though stated fully herein.

34. Sambolin and the Doe defendants willfully and intentionally entered the plaintiffs' residence without a lawfully obtained warrant, consent, or exigent circumstances, following they searched the premises without lawful authority.

35. Sambolin and the Doe defendants seized, searched, detained, and arrested plaintiffs, and caused them them to be imprisoned, without sufficient legal cause cause, and without a reasonable basis to believe such cause existed, or otherwise failed to intervene in such conduct by their fellow police officers.

36. By so doing, the Doe defendants subjected the plaintiffs to false arrest and imprisonment, and unlawful searches of their person and property, and thereby violated, conspired to violate, and aided and abetted in the violation of plaintiffs' rights under the Fourth and Fourteenth Amendments of the United States Constitution.

37. By reason thereof, the Doe defendants have violated 42 U.S.C. §1983

and caused plaintiffs to suffer emotional and physical injuries, mental anguish, the loss of their personal belongings, incarceration and the deprivation of liberty, and the loss of their constitutional rights.

SECOND CAUSE OF ACTION

38. Plaintiffs repeat the allegations contained in the preceding paragraphs above as though stated fully herein.

39. Defendant City of New York was responsible for ensuring that reasonable and appropriate levels of supervision were in place within and/or over the NYPD.

40. Defendants had actual or constructive knowledge that there was inadequate supervision over and/or within the NYPD with respect to its members' abuse of their authority, abuse of arrest powers, fabrication of evidence, and other blatant violations of the United States Constitution and the rules and regulations of the NYPD. Despite ample notice of inadequate supervision, defendants took no steps to ensure that reasonable and appropriate levels of supervision were put place to reasonably ensure that NYPD members engaged in police conduct in a lawful and proper manner, including their use of their authority as law enforcement officers with respect to the general public, including, and specifically, the plaintiff herein.

41. The defendant City of New York deliberately and intentionally chose not to take action to correct the chronic, systemic, and institutional misuse and abuse of

police authority by its NYPD employees, and thereby deliberately and intentionally adopted, condoned, and otherwise created through deliberate inaction and negligent supervision, an NYPD policy, practice, and custom of utilizing illegal and impermissible searches, arrests, and detentions, and the manufacturing of evidence, in the ordinary course of NYPD business in flagrant disregard of the state and federal constitutions, as well as the Patrol Guide, up to and beyond the plaintiff's arrest.

42. The acts complained of herein are a direct and proximate result of the failure of the City of New York and the NYPD properly to select, train, supervise, investigate, promote and discipline police and correction officers and supervisory officers.

43. The failure of the City of New York and the NYPD properly to select, train, supervise, investigate, promote and discipline police and correction officers and supervisory officers constitutes gross and deliberate indifference to unconstitutional conduct by those officers.

44. The official policies, practices and customs of the City of New York and the NYPD alleged herein violated plaintiff's rights guaranteed by 42 U.S.C. § 1983, the Fourth and Fourteenth Amendments to the Constitution of the United States.

45. All of the acts and omissions by the individual defendants described above were carried out pursuant to overlapping policies and practices of the municipal defendant in their capacities as police officers and officials pursuant to customs, policies, usages, practices, procedures, and rules of the City and the NYPD, all under the supervision of ranking officers of the NYPD.

46. Therefore the municipal defendant has not only tolerated, but actively

fostered a lawless atmosphere within the NYPD and that the City of New York was deliberately indifferent to the risk that the inadequate level of supervision would lead to the violation of individuals' constitutional rights in general, and caused the violation of the plaintiff's rights in particular.

47. By reason thereof, the Doe defendants have violated 42 U.S.C. §1983 and caused plaintiffs to suffer emotional and physical injuries, mental anguish, the loss of their personal belongings, incarceration and the deprivation of liberty, and the loss of their constitutional rights.

DEMAND FOR A JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, plaintiffs hereby demand a jury trial of all issues capable of being determined by a jury.


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WHEREFORE, the plaintiffs demand judgment against defendants jointly and severally as follows:

- i. on cause of action one, actual damages and punitive against each of the individual defendants, in an amount to be determined at trial;
- ii. on cause of action two, actual damages against the municipal defendant, in an amount to be determined at trial;
- iii. statutory attorney's fees pursuant to, *inter alia*, 42 U.S.C. §1988 and New York common law, disbursements, and costs of this action; and
- iv. such other relief as the Court deems just and proper.

Dated: New York, New York
November 17, 2015

LUMER & NEVILLE
Attorneys for Plaintiff
225 Broadway, Suite 2700
New York, New York 10007
(212) 566-5060

By: 
Michael B. Lumer (ML-1947)